

# SPECIAL PROVISIONS

## TERMS AND ACRONYMS USED HEREIN

Procurement Officer	=	The contracting officer for the HSPLS
HSPLS	=	Hawaii State Public Library System
State	=	State of Hawaii
DAGS/CSD	=	Department of Accounting and General Services/ Central Services Division
CA	=	Contract Administrator
Bidder or Offeror	=	Any individual, partnership, firm, corporation, joint venture, or other entity submitting directly or through a duly authorized representative or agent, a bid for the good, service, or construction contemplated.
HRS	=	Hawaii Revised Statutes
HAR	=	Hawaii Administrative Rules
HlePRO	=	Hawaii eProcurement System
General Conditions	=	103D General Conditions, AGS-008 issued by the State Office of the Attorney General.
IFB	=	Invitation for Bids
GET	=	General Excise Tax

### 1.0. SCOPE

The upgrade of the 60-ton Baltimore Air outdoor AC unit located at McCully Public Library shall be in accordance with these Special Provisions, attached Specifications, and the 103D General Conditions, Form AG-008.

### 2.0 CONTRACT ADMINISTRATOR

For the purpose of this contract, Mr. Richard Louis, Administrator, DAGS/CSD, or designee, is the designated Contract Administrator (CA). The telephone number at which he may be reached is (808) 831-7957.

### 3.0 TERM OF CONTRACT

The term of contract shall be for the approximately FIFTEEN (15) month period commencing from **June 19, 2023 through September 19, 2024.**

### 4.0 CONTRACT EXTENSION

Contract can be extended up to additional three months period by mutual consensus of the HSPLS and the Contractor under the cases not depending on human factors.

### 5.0 PRE-BID CONFERENCE

**Prospective qualified Offerors are invited to attend a pre-bid conference to be held at 9:00am on May 24, 2023, Wednesday at the McCully Public Library parking entrance located at 2211 South King Street, Honolulu, Hawaii.** The purpose of this non-mandatory meeting is to address any questions and concerns Offerors may have regarding the procurement process, IFB specifications and the scope of work.

Offeror is advised that anything discussed at the pre-bid conference does not change any part of

this solicitation. All changes and/or clarifications to this solicitation shall be done in the form of written addenda.

Submission of a bid in response to this solicitation shall indicate that Offeror understands the scope of services to be provided, and accepts the terms and conditions of the resulting contract, if awarded. No additional compensation, subsequent to bid opening, shall be allowed by reason of any misunderstanding or error regarding site conditions or work to be performed.

## **6.0 EXAMINATION OF SERVICE AREAS**

**Prospective qualified Offerors are encouraged to attend the pre-offer conference which will provide a site examination of service areas (site visitation).**

The site visitation is to thoroughly familiarize Offerors with existing conditions and the amount and kind of work to be performed.

No additional compensation will be made by reason of any misunderstanding or error regarding conditions at the service areas or the amount and kind of work to be performed.

## **7.0 WRITTEN INQUIRIES (QUESTIONS AND ANSWERS)**

Inquiries regarding this solicitation are due on or before **2:00Pm on Tuesday, May 30, 2023**. inquiries shall be made using the HlePRO Question and Answer Section.

Responses to inquiries shall be made by way of HlePRO, Question and Answer Section, on or before **4:00pm on Monday, June 5, 2023**.

## **8.0 REQUIREMENTS FOR CONTRACTOR LICENSING CLASSIFICATIONS**

Offerors as a General Engineering Contractor holding an 'A' license and General Building Contractor holding a 'B' license are reminded that due to the Hawaii Supreme Court's January 28, 2002 decision in Okada Trucking Co., Ltd. V. Board of Water Supply, et al., 97 Haw. 450 (2002), they are prohibited from undertaking any work, solely or as part of a larger project, which would require the General Contractor to act as a specialty Contractor in any area in which the General Contractor has no license.

Offerors are solely responsible to review the project requirements, determine the appropriate licenses required, and ensure that they possess and that the Subcontractor(s) listed possess the necessary specialty licenses to perform the work for this project.

## **9.0 OFFEROR QUALIFICATIONS**

**Experience and Qualifications.** The Offeror shall have a minimum of five consecutive years experience (immediately prior to the bid opening date), in the field of AC and ventilation contracting. All Offerors must be able to produce documented inspection and testing experience to substantiate their claim of experience.

**Service Facility.** The Offeror shall have a service facility on the island of Oahu from where they conduct business and will be accessible to telephone calls, complaints or emergency service requests. Answering machines do not qualify and are in default of these requirements. Service facility shall include warehousing of spare parts, and materials required for the maintenance and repair of equipment listed in this contract; and from where the journeymen and apprentices are dispatched to perform the work specified in this contract. Service facility information shall be

furnished on the appropriate Qualification Form Part A.

**License.** The Offeror shall possess at the time of bid submittal, a valid State of Hawaii contractor C-52 license and the required business and tax licenses in order to conduct business in the State of Hawaii. The contractor's license and tax license must be kept in force during the duration of this contract and for any extensions that may be agreed upon. The DAGS/CSD may request Offeror to submit a valid copy of the contractor's C-52 license within ten working days from the date the request is made.

**Personnel Qualifications.** Offeror's personnel can be listed only once in the journeyman spaces provided on the appropriate Qualification Form, ventilation and AC contracting.

The Offeror shall have at least one journeymen technician assigned to this contract who are regular employees of the Offeror at the time of bid each with a minimum of five years of maintenance and repair experience. The Offeror shall furnish the above information for journeymen technicians to be assigned to this work on appropriate Qualification Form.

All journeyman technicians assigned to this contract must reside on the Island of Oahu during the duration of this contract. This requirement is necessary to insure adequate emergency and regular maintenance calls.

Falsification of personnel qualifications, inability to perform the work in accordance with these specifications, utilization of unqualified personnel, or excessively high turnover of personnel assigned to this project SHALL CONSTITUTE A BREACH OF CONTRACT.

References. Offeror will list on applicable Qualification Form Part A at least five references in the State of Hawaii, other than the State of Hawaii government, for whom Offeror has performed a total coverage mechanical maintenance service of automated logic energy monitoring and control systems on a regular basis, that is similar in nature and volume to services specified herein, that will qualify Offeror to perform the project. The State reserves the right to contact the references provided and to reject any bid submitted by a Contractor whose performance on other service contracts similar to this one has been proven unsatisfactory.

**Qualification Form.** Offeror must complete and return all Qualification Form electronically, as an attachment, with their bid submittal through HlePRO. Offerors are responsible to ensure all forms requested are attached when submitting an offer.

If Offeror need assistance in submitting these pages through HlePRO, they can contact HlePRO at (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

If requested by the HSPLS, the Offeror shall have three business days to provide additional information/documentation. Failure to do so may result in disqualification of Offeror.

## **10.0 CERTIFICATION OF INDEPENDENT COST DETERMINATION**

By submission of an offer in response to this IFB, Offeror certifies as follows:

1. The costs in this IFB have been arrived at independently, without consultation, communication, or agreement with any other Offeror, as to any matter relating to such costs for the purpose of restricting competition.

2. Unless otherwise required by law, the cost which have been quoted in this IFB have not been knowingly disclosed by the Offeror prior to award, directly or indirectly, to any other Offeror or competitor prior to the award of the contract.
3. No other attempt has been made or will be made by the Offeror to indicate any other person or firm to submit or not to submit for the purpose of restricting competition, bid rigging, or other unlawful purpose.

## **11.0 BID PREPARATION**

**Offer Form A, Page OF-1.** Offeror is requested to submit its offer using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs, if applicable; and to indicate exact legal name in the appropriate space on Offer Form A, page OF-1. Failure to do so may delay proper execution of the contract.

The authorized signature on the first page of the Offer Form A shall be an original signature in ink, which shall be required before an award, if any, can be made. The signed Offer Form A page OF-1 shall indicate Offeror's intent to be bound.

**Offer Form B, Bid Quotation – Upgrade the 60-ton Baltimore Air Outdoor AC unit located at McCully Public Library:** Bid price for replacing and upgrading service shall include ALL COSTS for labor, equipment, parts and materials, controls, transportation/mileage, disposal of old AC unit and all applicable taxes (including the Hawaii General Excise Tax), and any other expenses necessary as required to perform the services as specified in this bid solicitation. Please be sure to enter the total lump sum bid price in words and numerals.

**Insurance.** Offeror shall provide insurance information as requested on the appropriate Offer Form page(s).

**Wage certificate.** The Offeror shall complete and submit a Wage Certificate with its offer, as an attachment on HlePRO, by which the Offeror certifies that services required will be performed pursuant to §103-55, HRS. Refer to section below for further information.

## **12.0 SUBMISSION OF OFFER**

Offers shall be received electronically through the Hawaii State eProcurement called HlePRO. Offers received outside of the HlePRO shall be rejected and not be considered for award.

To register for HlePRO please go to the Hawaii eProcurement System website: <https://hiepro.hawaii.gov>. If you need assistance in registering, please call (808) 695-4620 or go to the HlePRO website and click on Help-Chat online.

Offeror's electronic response to this solicitation shall be deemed an offer to sell the specified goods, services and/or construction to the HSPLS at the price(s) shown in the response and under the terms and conditions of this solicitation.

Offerors must complete and submit the following document(s), form(s) and/or certificate(s):

- Offer Form A,
- Offer Form B,
- Qualification Form,
- Wage Certificate,
- Contractor's C-52 License,
- Exhibit A (Bid Security)

**These document(s), form(s) and/or certificate(s) must be submitted electronically, as an attachment, through the HlePRO.**

**Offerors are responsible to ensure all forms requested are attached when submitting an offer.**

**Offeror must bid on all items specified on the Offer Form B pages to be considered for award. Failure to do so shall result in rejection of the entire bid.**

### **13.0 RESPONSIBILITY OF OFFERORS**

Offeror is advised that in order to be awarded a contract under this solicitation, the vendor/contractor/service provider will be required to be compliant with all laws governing entities doing business in the State including the following chapters and pursuant to HRS § 103D-310 (c):

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. Section 103D-310©, Certificate of Good Standing (COGS) for entities doing business in the State.

The HSPLS will verify compliance on Hawaii Compliance Express (HCE) for awards of \$ 2,500 or greater.

The HCE is an electronic system that allows vendors/contractors/ services providers doing business with the State to quickly and easily demonstrate compliance with applicable laws.

It is an online system that replaces the necessity of obtaining paper compliance certificates from the Department of Taxation; Federal Internal Revenue Service; Department of Labor and Industrial Relations; and Department of Commerce and Consumer Affairs.

Vendors/contractors and service providers should register online with HCE prior to submitting an offer at <https://vendors.ehawaii.gov>. There is an annual registration fee of \$12.00 payable to Hawaii Information Consortium, LLC (HIC).

If you have any questions, please call:

Hawaii Information Consortium, LLC  
Phone no. 695-4620 or  
Email: [info@ehawaii.gov](mailto:info@ehawaii.gov)

The "Certificate of Vendor Compliance" is accepted for both contracting and final payment.

**It is recommended that Offerors register with HCE prior to responding to a solicitation, to ensure timely submittal when requested. Offerors should be aware that it may take 30 working days to establish a compliant status.**

**Final Payment Requirements.** Contractors are required to submit a "Certificate Of Vendor Compliance" for final payment on the contract.

#### **14.0 AWARD OF CONTRACT**

**Method of Award.** Award, if made, shall be to the single responsive, responsible, qualified Offeror submitting the lowest evaluated **TOTAL LUMP SUM BID PRICE.**

**Offeror must bid on all items listed in order to qualify for award. Failure shall result in rejection of the entire bid.**

**Timely Submission of Certificates.** The qualified Offeror with the lowest responsive offer is required to submit to the DAGD/CSD a "**Certificate of Vendor Compliance**" **within ten (10) working days from the date the request is made.** If the certificate is not submitted on a timely basis, an otherwise responsive offer from a responsible Offeror may not receive the award.

**Cancellation of IFB and Rejection of Offers.** Awards shall be contingent on the availability of funds. The HSPLS reserves the right to cancel this IFB and/or reject any and all offers in whole or in part when it is determined to be in the best interest of the HSPLS.

#### **15.0 EXECUTION OF CONTRACT**

The HSPLS shall forward a formal contract to the successful Offeror for execution. The contract shall be signed by the successful Offeror and returned to the HSPLS within ten working days after receipt by the Offeror.

If the option(s) to extend is mutually agreed upon, Contractor shall be required to execute a supplement to the contract.

#### **16.0 NOTICE TO PROCEED**

Work will commence on the official commencement date specified on the Award Notification and/or Notice to Proceed.

No work is to be undertaken by the Contractor prior to the commencement date specified on the Award Notification and/or Notice to Proceed issued by the HSPLS upon execution of the contract by both parties.

The HSPLS is not liable for any work, contract, costs, expenses, loss of profits, or any damages whatsoever incurred by the Contractor prior to the official commencement date.

## 17.0 INVOICING

Contractor shall submit an original and one copy of the invoice, which includes the Contract Number, IFB Number and the month of service to the following address:

Hawaii State Public Libraries System  
Facilities Management Office  
44 Merchant Street  
Honolulu, Hawaii 96813

Invoices billed from a mainland affiliate must be sent to the Contractor's local office for inclusion of the appropriate paperwork, before being submitted to HSPLS. Incomplete invoices will be returned to the Contractor without processing.

For Estimated Extra Work Service, the HSPLS will issue a Purchase Order and/or a Purchasing Card for this work on an "as-needed-basis".

For extra work approved by the CA, a separate detailed invoice is required. Invoices shall contain date and description of the work done detailing the hours of labor; parts and materials. Any extra work will be paid for outside of this contract. The Contractor shall include with the original invoice, copies of fully completed and signed service work sheets, material and subcontractor invoices, and labor time sheets to substantiate parts and service charges to the HSPLS. Invoice payments may be delayed or rejected because of missing or incomplete paperwork.

**Final Payment Requirements.** Contractors are required to submit a "Certificate of Vendor Compliance" for final payment on the contract.

## 18.0 PAYMENT

Section 103-10, HRS, provides that the State shall have 30 calendar days after receipt of invoice or satisfactory performance of the services to make payment. For this reason, the HSPLS will reject any bid submitted with a condition requiring payment within a shorter period. Further, the State will reject any bid submitted with a condition requiring interest payments greater than that allowed by Section 103-10, HRS, as amended.

The HSPLS will not recognize any requirement established by the Contractor and communicated to the HSPLS after award of the contract, which requires payment within a shorter period, or interest payment not in conformance with statute.

## 19.0 SERVICE REQUIREMENTS AND CONTRACT MODIFICATIONS

The contractor should provide one-year warranty to the new AC equipment installed to replace the existing 60-ton Outdoor Baltimore Air AC unit. Any required maintenance and services must be rendered by the contractor within the one-year warranty period. Although the contract ends upon the completion of the upgrading the existing 60-ton AC unit, the contractual services shall continue within the one-year warranty period.

The contract can be extended upon mutual agreement in writing between the HSPLS and the Contractor under cases not depending on human factors.

## 20.0 LIQUIDATED DAMAGES

Liquidated damages is fixed at the sum of **TWO HUNDRED DOLLARS (\$200)** per calendar day per location per violation the Contractor fails to perform in whole or in part any of his obligations

specified herein. Liquidated damages, if assessed, may be deducted from any payments due or to become due to the Contractor. Refer to Section 9 of the 103D AG General Conditions, Form AG-008.

### **21.0 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**

If awarded a contract in response to this solicitation, Offeror agrees to comply with HRS §11-355, which states that campaign contributions are prohibited from a State and county government contractor during the term of the contracts if the contractors is paid with funds appropriated by a legislative body between the execution of the contract through the completion of the contract.

### **22.0 WAGES, HOURS, AND WORKING CONDITIONS OF EMPLOYEES OF CONTRACTOR PERFORMING**

All offerors for service contracts shall comply with Section 103-55, Hawaii Revised Statutes, which provides as follows:

Wages, hours, and working conditions of employees of CONTRACTOR supplying services: Before any offeror is entitled to submit any offer for the performance of any contract to supply services in excess of \$25,000 to any governmental agency, offeror shall certify that the services to be performed will be performed under the following conditions:

Wages: The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work.

Compliance with labor laws: All applicable laws of the federal and state governments relating to worker's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.

No contract to perform services for any governmental contracting agency in excess of \$25,000 shall be granted unless all the conditions of this section are met. Failure to comply with the conditions of this section during the period of the contract to perform services shall result in cancellation of the contract.

It shall be the duty of the governmental contracting agency awarding the contract to perform services in excess of \$25,000 to enforce this section.

This section shall apply to all contracts to perform services in excess of \$25,000, including contracts to supply ambulance service and janitorial service.

**Wage Certificate.** The Offeror shall complete and submit a Wage Certificate by which the Offeror certifies that services required will be performed pursuant to Section 103-55, HRS.

**Wage Certificate must be submitted electronically, as an attachment on HlePRO.**

### **23.0 BID SECURITY, PERFORMANCE AND BOND**

1. A bid security is required and must be executed by a surety company registered with the Department of Commerce & Consumer Affairs, and shall be in an amount equal to at least five per cent of the amount of the bid. Please refer to Exhibit A.

2. The performance and payment bonds are required and must be executed by a surety company registered with the Department of Commerce & Consumer Affairs, and in an amount equal to one hundred percent (100%) of the contract price specified.

Prior to issuance of the Notice to Award, Notice to Proceed or Purchase Order, Contractor shall provide the HSPLS an **ORIGINAL PERFORMANCE AND PAYMENT BONDS, within ten (10) working days from the date the request is made.**

**It is recommended that Offerors apply for Performance and Payment Bonds as soon as possible to ensure timely submittal if requested.**

#### **24.0 LIABILITY INSURANCE**

The Contractor shall obtain and maintain insurance described below which shall provide coverage against claims arising out of the Contractor's operations under the contracts, whether such operations be by the Contractor itself or by any subcontractor or by anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable during the life of this contract.

Worker's Compensation – The Contractor shall obtain worker's compensation insurance for all persons whom they employ in carrying out the work under this contract. This insurance shall be in strict conformity with the requirements of the most current and applicable State of Hawaii Worker's Compensation Insurance law in effect on the date of the execution of this contract and as modified during the duration of the contract.

General Liability – The Contractor shall obtain General Liability insurance with a limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the Aggregates.

Automobile Liability – The Contractor shall obtain Auto Liability Insurance covering all owned, non-owned and hired autos with a combined single limit of not less than \$1,000,000 per occurrence.

The Contractor shall maintain in full force and effect during the life of this contract, liability and property damage insurance to protect the Contractor and his subcontractors, if any, from claims for damages for personal injury, accidental death and property damage which may arise from operations under this contract, whether such operations be by the contractor or by a subcontractor or anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable during the life of this contract. If any subcontractor is involved in the performance of the contract, the insurance policy or policies shall name the subcontractor as an additional insured.

As an alternative to the Contractor providing insurance to cover operations performed by a subcontractor and naming the subcontractor as additional insured, Contractor may require subcontractor to provide its own insurance which meets the requirements herein. It is understood that a subcontractor's insurance policy or policies are in addition to the Contractor's own policy or policies.

The following minimum insurance coverage(s) and limit(s) shall be provided by the Contractor, including its subcontractor(s) where appropriate.

<u>Coverage</u>	<u>Limits</u>
Commercial General Liability (occurrence form)	\$1,000,000 combined single limit per occurrence for bodily injury and property damage \$2,000,000 aggregate per occurrence
Automobile Liability Insurance	\$1,000,000 combined single limit per occurrence

Each insurance policy required by this contract, including a subcontractor's policy, shall contain the following clauses:

1. "The Hawaii State Public Library System, McCully Public Library" is added as an additional insured as respects to operations performed for the State of Hawaii."
2. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The minimum insurance required shall be in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements.

Prior to issuance of the Notice to Proceed, Award Notification or Purchase Order, Contractor must provide to Hawaii State Public Libraries System (HSPLS), 44 Merchant Street, Honolulu, Hawaii 96813 within ten working days from the date the request is made a CERTIFICATE(S) OF INSURANCE completed by a duly authorized representative of their insurer certifying that the liability coverage(s) is written on an occurrence form.

The certificate of insurance is necessary to satisfy the HSPLS that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificate(s) therefore on deposit with the State during the entire term of this contract, including those of its subcontractor(s), where appropriate. Upon request by the State, Contractor shall be responsible for furnishing a completed certified copies of all required insurance policies, including endorsements effecting the coverage required at any time.

The Contractor will immediately provide written notice to the HSPLS, 44 Merchant Street, Honolulu, Hawaii, 96813 should any of the insurance policies evidence on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration.

Failure of the Contractor to provide and keep in force such insurance shall be regarded as material default under this contract, entitling the State to exercise any or all of the remedies provided in this contract for a default of the Contractor.

The procuring of such required insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, Contractor shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

It is recommended that Offerors apply for the Certificate of Insurance as soon as possible to ensure timely submittal when requested.

### **25.0 PERMITS, LICENSED, AND TAXES**

The Contractor shall procure all permits and licenses, during the original or extended contract term, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

Failure to procure and maintain valid permits and licenses required by law and these specifications may be cause for the State to terminate the contract.

### **26.0 SUBCONTRACTORS**

N/A.

### **27.0 SERVICE AREAS**

The Contractor shall perform the service at the facilities in which the units are located. It is the Contractor's responsibility to examine the location and condition of the equipment.

### **28.0 CLEANUP**

The Contractor shall keep the job site free of debris, litter, refuse, etc. and shall clean all fluids, oil and grease drippings or spills during the daily progress of work. The Contractor shall remove all old replaced malfunctioning parts and equipment from the area upon completion of the work.

### **29.0 COMPETENCY OF OFFEROR**

Prospective Offeror must be capable of performing the work for which offers are being called. Either before or after the deadline for an offer, the HSPLS may require Offeror to submit answers to questions regarding facilities, equipment, experience, personnel, financial status or any other factors relating to the ability of the Offeror to furnish satisfactorily the goods or services being solicited by the HSPLS. Any such inquiries shall be made and replied to in writing; replies shall be submitted over the signatures of the person who signs the offer. Any Offeror who refuses to answer such inquiries will be considered non-responsive.

### **32.0 INSPECTION**

All work done and all materials furnished shall be subject to random periodic inspection and approval by the CA so as to ascertain that the services rendered are in accordance with requirements and intentions of the Specifications and Special Provisions. The CA may require additional information as necessary to maintain a record of the service rendered, and also request that the Contractor accompany him on field inspections to be scheduled periodically.

### **33.0 RE-EXECUTION OF WORK**

The Contractor shall re-execute any work that fails to conform to the requirements of the contract and shall immediately remedy any defects due to faulty workmanship by the Contractor. Should the Contractor fail to comply, the HSPLS reserves the right to engage the services of another company to perform the services and to deduct such costs from monies due to the Contractor.

#### **34.0 REMOVAL OF CONTRACTOR'S EMPLOYEES**

Contractor agrees to remove any of its employees from services rendered and to be rendered to the State, upon request in writing by the Procurement Officer.

#### **35.0 APPROVALS**

Any agreement arising out of this offer may be subject to the approval of the Department of the Attorney General as to form, and is subject to all further approvals, including the approval of the Governor, required by statute, regulations, rule, order, or other directive.

#### **36.0 RIGHTS AND REMEDIES FOR DEFAULT**

In the event the Contractor fails, refuses or neglects to perform the services in accordance with the requirements of these General Specifications, Detailed Specifications, Special Provisions, and General Conditions as specified herein, the State reserves the right to purchase in the open market, a corresponding quantity of the goods specified herein and to deduct from any moneys due or that may thereafter become due the Contractor, the difference between the price named in the contract and the actual cost thereof to the State. In case any money due the Contractor is insufficient for said purpose, the Contractor shall pay the difference upon demand by the State. The State may also utilize all other remedies provided by law.

#### **37.0 TERMINATION FOR CONVENIENCE**

The Agency may, when the interests of the HSPLS so require, terminate this Contract in whole or in part, for the convenience of the HSPLS. The Agency will give written notice of the termination to the Contractor specifying the part of the Contract terminated and when termination becomes effective.

#### **38.0 PROTESTS**

Pursuant to HRS § 103D-701, an actual or prospective Offeror who is aggrieved in connection with the solicitation or award of a contract may submit a protest. Any protest shall be submitted in writing to the Procurement Officer Mallory Fujitani, 44 Merchant Street, Honolulu, Hawaii 96813.

A protest shall be submitted in writing within five working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided that a protest based upon the content of the solicitation shall be submitted in writing prior to the date set for receipt of offers. Further provided that a protest of an award or proposed award shall be submitted within five working days after the posting of award.

Award(s), if any, resulting from this solicitation shall be posted to the State Procurement Office website: <https://www.hawaii.gov/spo>